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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/780,345

02/17/2004

Walter V. Klemp

AHP-P01880US2

1992

23770

7590

09/14/2006

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,345

Applicant(s)

KLEMP

Examiner

Jacqueline F. Stephens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-70 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 39-70 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/2/06, 1/27/06</u> . | 6) <input checked="" type="checkbox"/> Other: <u>IDS filed 10/10/05, 10/25/04</u> . |

DETAILED ACTION

The restriction requirement mailed on 9/22/05 is withdrawn.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claim 39-41, 44-46, 48, 50, 53-55, 56, 58, 60, 62, and 64-66 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (USPN 6258196 B1).

Regarding claims 39-41, 44-46, 53-55, 58, 64-66, Suzuki discloses an absorbent article comprising a topsheet, backsheet, and an absorbent core disposed between (Figure 32). Suzuki discloses an absorbent composite comprising an absorbent layer having cellulose microfibrils (A/B, col. 6, lines 39-52), super absorbent polymers (col. 21, lines 35-50), and a nonwoven substrate supporting said absorbent layer (B). Suzuki discloses an example where layer (B) forms an absorbent and a backsheet (Example 9). The absorbent layer may be coated, particularly if bicomponent fibers are used (col. 7, lines 29-38). The absorbent core is constructed of the absorbent composite (Figures 23, 24, and 33). The absorbent core may include a prefabricated sheet of the absorbent composite (col. 9, 19-24). The topsheet may be first layer A/B and the core B, or the topsheet may be A/B and the core may be layer A/B (Figures 17, 18, and 22). The

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composite may comprise longitudinally spaced parallel lines or pleats, creating wicking zones between the absorbent layers and exposing the underlying substrate (Figure 8)

As to claims 48, 50, 60, and 62, see Figure 6(c) and Figure 12.

With respect to claims 52, either the absorbent layer or the nonwoven substrate layer may comprise a concentration of pulp material (col. 3, lines 45-52). Therefore, the absorbent composite may contain pulp material disposed between layers as claimed (Figures 18 a/b, 22, and 30b).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 42, 52, 56, 59, and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki. Suzuki discloses the present invention substantially as claimed. However, Suzuki fails to disclose the super absorbent polymers exhibit gel blocking. Suzuki discloses the polymeric materials are adapted to swell such as in Figure 16b. Suzuki further discloses that the 'waves' are hydrophobic which inherently creates a water impervious area when the polymeric materials swell. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the composite with a low crosslinked material to create an liquid impervious material, since Suzuki teaches creating a liquid barrier due to the swelling of the absorbent particles.

6. Claims 43, 47, 57, 68, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Gross (USPN 5403870). Suzuki discloses the present invention substantially as claimed. However, Suzuki fails to disclose the concentration and swell rate of the superabsorbent materials. Gross discloses a water-swellaable, water-insoluble polymeric material suitable for use in absorbent articles. Gross further discloses that the amount of cross-linking is proportional to its water-swellaability. It would have been obvious to one having ordinary skill in the art at the

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time the invention was made to modify the composite of Suzuki with a concentration of crosslinking agent suitable for the end product as taught by Gross. Additionally, discovering an optimum value of a result effective variable only involves routine skill in the art.


As to claims 49, 51, 61, 63, and 70, it would have been an obvious matter of design choice to provide dotted concentrations and absorbent layers with the claimed dimensions, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jacqueline F Stephens
Primary Examiner
Art Unit 3761

August 7, 2006